

Exercise Notice - Section 3.03(b)(ii)(A).

Extension – Pipeline facilities which extend the length of the Initial Facilities or Modification and/or which consist of a lateral line extending therefrom.

FERC - the Federal Energy Regulatory Commission or any Governmental Authority succeeding to the powers of such commission.

FERC Certificate – the certificate(s) of public convenience and necessity issued by FERC pursuant to any FERC Application.

FERC Response Date - 30 Days following the date upon which the FERC has issued the applicable FERC Approval.

Financing Commitment – the fully executed definitive agreements between one or more financial institutions or other Persons and the Company or the Financing Corporation pursuant to which such financial institutions or other Persons agree, subject to the conditions set forth therein, to lend money to the Company or the Financing Corporation, the proceeds of which shall be used to finance all or a portion of the Initial Facilities, a Modification, or Extension, as applicable.

Financing Corporation – the corporation or trust wholly owned by the Company that may be organized for the purpose of issuing securities, the proceeds from which are to be advanced directly or indirectly to the Company to finance all or a portion of the Initial Facilities, a Modification, or Extension, as applicable.

Gas Transportation Service Agreements - the gas transportation service agreements, including precedent agreements, by and between the Company and the Shippers for the receipt, transportation and delivery of natural gas by means of the Initial Facilities or any Modification or Extension.

Governmental Authority (or Governmental) - a federal, state, local or foreign governmental authority; a state, province, commonwealth, territory or district thereof; a county or parish; a city, town, township, village or other municipality; a district, ward or other subdivision of any of the foregoing; any executive, legislative or other governing body of any of the foregoing; any agency, authority, board, department, system, service, office, commission, committee, council or other administrative body of any of the foregoing; including the FERC, any court or other judicial body; and any officer, official or other representative of any of the foregoing.

including - including, without limitation.

Indebtedness of the Company - indebtedness for borrowed money owed by the Company.

Initial Facilities – the pipeline facilities comprising of Project referred to in the first recital, with such changes as may be approved by the Management Committee.

In-Service Date - the date of placing the Initial Facilities, a Modification or Extension in service. Promptly after such date, the Operator shall notify the other Members of its occurrence.

Law - any applicable constitutional provision, statute, act, code (including the Code), law, regulation, rule, ordinance, order, decree, ruling, proclamation, resolution, judgment, decision, declaration, or interpretative or advisory opinion or letter of a Governmental Authority having valid jurisdiction.

Majority Interest - Section 6.02(f)(i)(B).

Management Committee - Section 6.02.

MDth - one thousand dekatherms.

Member - any Person executing this Agreement as of the date of this Agreement as a member or hereafter admitted to the Company as a member as provided in this Agreement, but such term does not include any Person who has ceased to be a member in the Company.

Membership Interest - with respect to any Member, (a) that Member's status as a Member; (b) that Member's share of the income, gain, loss, deduction and credits of, and the right to receive distributions from, the Company; (c) all other rights, benefits and privileges enjoyed by that Member (under the Act, this Agreement, or otherwise) in its capacity as a Member, including that Member's rights to vote, consent and approve and otherwise to participate in the management of the Company, including through the Management Committee; and (d) all obligations, duties and liabilities imposed on that Member (under the Act, this Agreement or otherwise) in its capacity as a Member, including any obligations to make Capital Contributions.

Modification - any pipeline facilities installed to expand or increase the capacity of the Initial Facilities or any portion thereof or to provide a new point of delivery or receipt of natural gas on the Initial Facilities.

Necessary Regulatory Approvals - all Authorizations as may be required (but excluding Authorizations of a nature not customarily obtained prior to commencement of construction of facilities) in connection with (a) the formation of the Company and the construction and operation of the Initial Facilities, or a Modification or Extension, and (b) the transportation of natural gas by means thereof.

NGA - the Natural Gas Act.

Officer - any Person designated as an officer of the Company as provided in Section 6.02(k), but such term does not include any Person who has ceased to be an officer of the Company.

Operator - Duke Energy Gas Transmission Corporation, or any subsequent operator as provided in any agreement which replaces the CO&M Agreement in accordance with this Agreement and the CO&M Agreement.

Parent - the Person that controls a Member and that is not itself Controlled by any other Person. The Parents of the initial Members as of the Effective Date are set forth in Exhibit A.

Person - the meaning assigned that term in Section 18-101(11) of the Act and also includes a Governmental Authority and any other entity.

Pre-Effective Date Expenditure - Expenditures made by any Member or any of its Affiliates prior to the Effective Date if approved by the Management Committee pursuant to Section 4.01, including expenditures made in the course of activities reasonably related to preparation and negotiation of this Agreement, creating the Company, planning and developing the Initial Facilities, conducting analysis, and marketing and development efforts relating thereto.

Preferential Right - Section 3.03(b)(ii)(A).

PUHCA - the Public Utility Holding Company Act of 1935.

Purchasing Member - Section 3.03(b)(ii)(A).

Representative - Section 6.02(a)(i).

Required Accounting Practices - the accounting rules and regulations, if any, at the time prescribed by the Governmental Authorities under the jurisdiction of which the Company is at the time operating and, to the extent of matters not covered by such rules and regulations, generally accepted accounting principles as practiced in the United States at the time prevailing for companies engaged in a business similar to that of the Company.

SEC - the Securities and Exchange Commission or any Governmental Authority succeeding to the powers of such commission under PUHCA.

Securities Act - the Securities Act of 1933.

Sharing Ratio - subject in each case to adjustments in accordance with this Agreement or in connection with Dispositions of Membership Interests, (a) in the case of a Member executing this Agreement as of the date of this Agreement or a Person acquiring such Member's Membership Interest, the percentage specified for that Member as its Sharing Ratio on Exhibit A, and (b) in the case of Membership Interests issued pursuant to Section 3.04, the Sharing Ratio established pursuant thereto; provided, however, that the total of all Sharing Ratios shall always equal 100%.

Shippers - those Persons that have entered into Gas Transportation Service Agreements or, where applicable, a precedent agreement relating thereto with Company.

Sole Discretion - Section 6.02(f)(ii).

Tax Matters Member - Section 9.03(a).

Term - Section 2.06.

Treasury Regulations - the regulations (including temporary regulations) promulgated by the United States Department of the Treasury pursuant to and in respect of provisions of the Code. All references herein to sections of the Treasury Regulations shall include any corresponding provision or provisions of succeeding, similar or substitute, temporary or final Treasury Regulations.

Unanimous Interest - Section 6.02(f)(i)(A).

Unexercised Portion - Section 3.03(b)(ii)(A).

Withdraw, Withdrawing or Withdrawal - the withdrawal, resignation or retirement of a Member from the Company as a Member. Such terms shall not include any Dispositions of Membership Interest (which are governed by Sections 3.03(a) and (b)), even though the Member making a Disposition may cease to be a Member as a result of such Disposition.

Withdrawn Member - Section 7.02, 7.03(ii) or 11.03.

Other terms defined herein have the meanings so given them.

ARTICLE 2 ORGANIZATION

2.01 ***Formation.*** The Company has been organized as a Delaware limited liability company by the filing of the Delaware Certificate as of November 16, 2000.

2.02 ***Name.*** The name of the Company is "Islander East Pipeline Company, L.L.C." and all Company business must be conducted in that name or such other names that comply with Law as the Management Committee may select.

2.03 ***Registered Office; Registered Agent; Principal Office in the United States; Other Offices.*** The registered office of the Company required by the Act to be maintained in the State of Delaware shall be the office of the initial registered agent named in the Delaware Certificate or such other office (which need not be a place of business of the Company) as the Management Committee may designate in the manner provided by Law. The registered agent of the Company in the State of Delaware shall be the initial registered agent named in the Delaware Certificate or such other Person or Persons as the Management Committee may designate in the manner provided by Law. The principal office of the Company in the United States shall be at such place as the Management Committee may designate, which need not be in the State of Delaware, and the Company shall maintain records there or such other place as the Management Committee shall designate and shall keep the street address of such principal office at the registered office of the Company in the State of Delaware. The Company may have such other offices as the Management Committee may designate.

2.04 **Purposes.** The purposes of the Company are to plan, design, construct, own, operate, maintain and manage the Project, to market the service of the Project, to engage in the transportation of natural gas through the Project, and to engage in activities relating thereto.

2.05 **Foreign Qualification.** Prior to the Company's conducting business in any jurisdiction other than Delaware, the Management Committee shall cause the Company to comply, to the extent procedures are available and those matters are reasonably within the control of the Management Committee, with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Management Committee, each Member shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

2.06 **Term.** The period of existence of the Company (the "*Term*") commenced on November 16, 2000 and shall end at such time as a certificate of cancellation is filed with the Secretary of State of Delaware in accordance with Section 12.04.

ARTICLE 3 MEMBERSHIP; DISPOSITIONS OF INTERESTS

3.01 **Current Members.** As of the Effective Date, Duke Energy and KeySpan are the Members of the Company.

3.02 **Representations, Warranties and Covenants.** Each Member hereby represents, warrants and covenants to the Company and each other Member that the following statements are true and correct as of the Effective Date and shall be true and correct at all times that such Member is a Member:

(a) that Member is duly incorporated, organized or formed (as applicable), validly existing, and (if applicable) in good standing under the Law of the jurisdiction of its incorporation, organization or formation; if required by applicable Law, that Member is duly qualified and in good standing in the jurisdiction of its principal place of business, if different from its jurisdiction of incorporation, organization or formation; and that Member has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, and all necessary actions by the board of directors, shareholders, managers, members, partners, trustees, beneficiaries, or other applicable Persons necessary for the due authorization, execution, delivery, and performance of this Agreement by that Member have been duly taken;

(b) that Member has duly executed and delivered this Agreement, and it constitutes the legal, valid and binding obligation of that Member enforceable against it in accordance with its terms (except as may be limited by bankruptcy, insolvency or similar Laws of general application and by the effect of general principles of equity, regardless of whether considered at law or in equity);

(c) that Member's authorization, execution, delivery, and performance of this Agreement does not and will not (i) conflict with, or result in a breach, default or violation

of, (A) the organizational documents of such Member, (B) any contract or agreement to which that Member is a party or is otherwise subject, or (C) any Law, order, judgment, decree, writ, injunction or arbitral award to which that Member is subject; or (ii) require any consent, approval or authorization from, filing or registration with, or notice to, any Governmental Authority or other Person, unless such requirement has already been satisfied;

(d) that Member's authorization, execution, delivery and performance of this Agreement does not and will not have the effect of subjecting any of the other Members, any "affiliates" (as defined in PUHCA) of such other Members, or the Company to any obligation, duty, or liability under PUHCA as a "subsidiary company" (as defined in PUHCA) or an "affiliate" (as defined in PUHCA) of a registered holding company under PUHCA or of a "subsidiary company" thereof; and

(e) that no interests will be transferred and no other actions will be taken which would result in more than 50% of Membership Interests in the Company being owned, directly or indirectly, by one or more registered holding companies.

3.03 *Dispositions and Encumbrances of Membership Interests.*

(a) ***General Restriction.*** A Member may not Dispose of or Encumber all or any portion of its Membership Interest except in strict accordance with this Section 3.03. References in this Section 3.03 to Dispositions or Encumbrances of a "Membership Interest" shall also refer to Dispositions or Encumbrances of a portion of a Membership Interest. Any attempted Disposition or Encumbrance of a Membership Interest, other than in strict accordance with this Section 3.03, shall be, and is hereby declared, null and void *ab initio*. The rights and obligations constituting a Membership Interest may not be separated, divided or split from the other attributes of a Membership Interest except as contemplated by the express provisions of this Agreement. The Members agree that a breach of the provisions of this Section 3.03 may cause irreparable injury to the Company and to the other Members for which monetary damages (or other remedy at law) are inadequate in view of (i) the complexities and uncertainties in measuring the actual damages that would be sustained by reason of the failure of a Member to comply with such provision and (ii) the uniqueness of the Company business and the relationship among the Members. Accordingly, the Members agree that the provisions of this Section 3.03 may be enforced by specific performance pursuant to Section 12.04(b).

(b) *Dispositions of Membership Interests.*

(i) ***General Restriction.*** A Member may not Dispose of its Membership Interest except by complying with all of the following requirements: (A) such Member must offer the other Members the right to acquire such Membership Interest in accordance with Section 3.03(b)(ii), unless the proposed Assignee is an Affiliate of the Disposing Member; (B) such Member must comply with the requirements of Section 3.03(b)(iv) and, if the Assignee is to be admitted as a Member, Section 3.03(b)(iii); and (C) the Disposition must comply with the following minimum size requirements: (I) if such Member's Sharing Ratio is less than 20%, the Disposition must include all of the Member's Membership Interest, and (II) if such Member's Sharing Ratio is 20% or more, but such Member does not propose to Dispose of all of its Membership Interest, the Disposition must be of a Membership Interest having a Sharing Ratio of at least 10% and must be of an amount such that such Member will retain a Sharing Ratio of at least 10%.

(ii) ***Preferential Purchase Right.***

(A) ***Procedure.*** If a Member at any time desires to consummate a bona fide transaction that will result in the Disposition of all or a portion of its Membership Interest (whether or not the proposed Disposition is to another Member), then such Member (the "*Disposing Member*") shall promptly give notice thereof (the "*Disposition Notice*") to the Company and the other Members; provided, however, that this Section 3.03(b)(ii) shall not apply to a Disposition to an Affiliate of the Disposing Member. The Disposition Notice shall set forth all relevant information with respect to the proposed Disposition, including the name and address of the prospective acquirer, the precise Membership Interest that is the subject of the Disposition, the price to be paid for such Membership Interest, and any other terms and conditions of the proposed Disposition. The other Members shall have the preferential right ("*Preferential Right*") to acquire, for the same purchase price, and on the same terms and conditions, as are set forth in the Disposition Notice, such Membership Interest; provided, however, that, if the purchase price to be paid to the Disposing Member pursuant to the proposed Disposition is not entirely in cash, the purchase price for the Members exercising the Preferential Right shall be the Fair Market Value. Each Member (excluding the Disposing Member) shall have the right (but not the obligation) to acquire a portion of the applicable Membership Interest that is equal to (I) the Sharing Ratio represented by such Membership Interest times (II) a fraction, the numerator of which is such Member's Sharing Ratio and the denominator of which is the total Sharing Ratios of all Members other than the Disposing Member. Each Member (other than the Disposing Member) shall have 30 Days following its receipt of the Disposition Notice (or if the price to be paid pursuant to such offer is not in cash, then 30 Days following the determination of the Fair Market Value of such Membership Interest) in which to notify the other Members (including the Disposing Member) whether such Member desires to exercise its Preferential Right. A notice in which a Member exercises such Preferential Right is referred to herein as an "*Exercise Notice*," and a Member that delivers an Exercise Notice is referred to herein as a "*Purchasing Member*". If the Purchasing Members constitute less than all of the Members (other than the Disposing Member), and consequently, there is a portion of the Membership Interest for which such Preferential Right has not been exercised (an "*Unexercised Portion*"), then each Purchasing Member shall have 20 Days following the end of such period in which to notify the other Purchasing Members and the Disposing Member whether it desires to acquire the portion of the Unexercised Portion that is equal to (aa) the Sharing Ratio represented by the Unexercised Portion times (bb) a fraction, the numerator of which is such Purchasing Member's Sharing Ratio and the denominator of which is the total Sharing Ratios of all Purchasing Members. If, at the end of such 20-Day period, there remains an Unexercised Portion, then the Purchasing Members shall have an additional 10-Day period in which to negotiate among themselves for a mutually-agreeable method of sharing the acquisition of the remaining Unexercised Portion. If the Purchasing Members are able to reach such agreement during such 10-Day period, then the Preferential Right shall be deemed exercised, and the Disposing Member and the Purchasing Members shall close the acquisition of the Membership Interest in accordance with Section 3.03(b)(ii)(B). If, however, the Purchasing Members are unable to reach such agreement during such

10-Day period, then the Preferential Right shall be deemed to have been waived, and the Disposing Member shall be free to Dispose of the entire Membership Interest in accordance with Section 3.03(b)(ii)(C). A Member that fails to exercise a right during any applicable period set forth in this Section 3.03(b)(ii)(A) shall be deemed to have waived such right for the subject Disposition, but not any right for future Dispositions.

(B) **Closing.** If the Preferential Right is deemed exercised in accordance with Section 3.03(b)(ii)(A), the closing of the purchase of the Membership Interest shall occur at the principal place of business of the Company on the 30th Day after the expiration of the last applicable period referred to in such Section 3.03(b)(ii)(A) (or, if later, the fifth Business Day after the receipt of all applicable Authorizations to the purchase), unless the Disposing Member and the Purchasing Members agree upon a different place or date. At the closing, (I) the Disposing Member shall execute and deliver to the Purchasing Members (aa) an assignment of the Membership Interest, in form and substance reasonably acceptable to the Purchasing Members, containing a general warranty of title as to such Membership Interest (including that such Membership Interest is free and clear of all Encumbrances, other than those permitted under Section 3.03(c)(ii)) and (bb) any other instruments reasonably requested by the Purchasing Members to give effect to the purchase; and (II) the Purchasing Members shall deliver to the Disposing Member in immediately-available funds the purchase price provided for in Section 3.03(b)(ii)(A). The Sharing Ratios and Capital Accounts of the Members shall be deemed adjusted to reflect the effect of the purchase.

(C) **Waiver of Preferential Right.** If no Members deliver Exercise Notices or if the Preferential Right is otherwise deemed waived pursuant to Section 3.03(b)(ii)(A), the Disposing Member shall have the right, subject to compliance with the provisions of Sections 3.03(a) and (b), to Dispose of the Membership Interest described in the Disposition Notice to the proposed Assignee strictly in accordance with the terms of the Disposition Notice for a period of 90 Days after the expiration of the last applicable period referred to in such Section 3.03(b)(ii)(A) (or, if later, the fifth Business Day after the receipt of all applicable Authorizations to the purchase). If, however, the Disposing Member fails so to Dispose of the Membership Interest within such 90-Day period (or, if applicable, such fifth Business Day period), the proposed Disposition shall again become subject to the Preferential Right.

(iii) **Admission of Assignee as a Member.** An Assignee has the right to be admitted to the Company as a Member, with the Membership Interest (and attendant Sharing Ratio) so transferred to such Assignee, only if such Disposition is effected in strict compliance with Sections 3.03(a) and (b).

(iv) **Requirements Applicable to All Dispositions and Admissions.** In addition to the requirements set forth in Sections 3.03(b)(i), 3.03(b)(ii) and 3.03(b)(iii), any Disposition of a Membership Interest and any admission of an Assignee as a Member shall also be subject to the following requirements, and such Disposition (and admission, if applicable) shall not be effective unless such requirements are complied with; provided,

however, that the Management Committee, in its sole and absolute discretion, may waive any of the following requirements:

(A) **Disposition Documents.** The following documents must be delivered to the Management Committee and must be satisfactory, in form and substance, to the Management Committee:

(I) **Disposition Instrument.** A copy of the instrument pursuant to which the Disposition is effected.

(II) **Ratification of this Agreement.** An instrument, executed by the Disposing Member and its Assignee, containing the following information and agreements, to the extent they are not contained in the instrument described in Section 3.03(b)(iv)(A)(I): (aa) the notice address of the Assignee; (bb) if applicable, the Parent of the Assignee; (cc) the Sharing Ratios after the Disposition of the Disposing Member and its Assignee (which together must total the Sharing Ratio of the Disposing Member before the Disposition); (dd) the Assignee's ratification of this Agreement and agreement to be bound by it, and its confirmation that the representations and warranties in Section 3.02 are true and correct with respect to it; and (ee) representations and warranties by the Disposing Member and its Assignee (AA) that the Disposition and admission is being made in accordance with all applicable Laws, (BB) that the matters set forth in Sections 3.03(b)(iv)(A)(III) and (IV) are true and correct, and (CC) that the Disposition and admission do not violate any Financing Commitment or any other agreement to which the Company is a party.

(III) **Securities Law Opinion.** Unless the Membership Interest subject to the Disposition is registered under the Securities Act and any applicable state securities Law, a favorable opinion of the Company's legal counsel, or of other legal counsel acceptable to the Management Committee, to the effect that the Disposition and admission is being made pursuant to a valid exemption from registration under those Laws and in accordance with those Laws.

(IV) **Tax Law Opinion.** A favorable opinion of the Company's legal counsel, or of other legal counsel acceptable to the Management Committee, to the effect that the Disposition (a) would not result in the Company being considered to have terminated within the meaning of Code Section 708, and (b) would not result in the Company being taxed as a corporation (or as a public traded partnership taxable as a corporation) for federal or state income tax purposes.

(V) **Assignee Tax Information.** The Assignee shall provide the Company with its taxpayer identification number, and with its initial tax basis in the Membership Interest being acquired.

(B) **Payment of Expenses.** The Disposing Member and its Assignee shall pay, or reimburse the Company for, all reasonable costs and expenses incurred by the

Company in connection with the Disposition and admission, including the legal fees incurred in connection with the legal opinions referred to in Sections 3.03(b)(iv)(A)(III) and (IV), on or before the 10th Day after the receipt by that Person of the Company's invoice for the amount due. The Company will provide such invoice as soon as practicable after the amount due is determined but in no event later than 90 days thereafter. If payment is not made by the date due, the Person owing that amount shall pay interest on the unpaid amount from the date due until paid at a rate per annum equal to the Default Rate.

(C) **No Release.** No Disposition of a Membership Interest shall effect a release of the Disposing Member from any liabilities to the Company or the other Members arising from events occurring prior to the Disposition.

(D) **Indebtedness of Company.** Any Disposition of a Membership Interest shall also include all of the Indebtedness owed by the Company to the Disposing Member (or, if only a portion of a Membership Interest is being disposed, a proportionate share of such Indebtedness). As long as this Agreement shall remain in effect, all evidences of Indebtedness of the Company owed to any of the Members shall bear an appropriate legend to indicate that it is held subject to, and may be Disposed only in accordance with, the terms and conditions of this Agreement, and that such Disposition may be made only in conjunction with the Disposition of a proportionate part of such Member's Membership Interest.

(v) **Deemed Membership Disposition.** A Deemed Membership Disposition shall be deemed to be a Disposition of a Membership Interest and must comply with the requirements set forth in Sections 3.03(a) and (b).

(vi) **Change of Member Control.**

(A) **Procedure.** In the event of a Change of Member Control, then the Member with respect to which the Change of Member Control has occurred (the "Changing Member") shall promptly (and in all events within five Business Days after the Change in Member Control) give notice thereof (the "Control Notice") to the Company and the other Members. If the Control Notice is not given by the Changing Member as provided above and any other Member becomes aware of such Change of Member Control, such other Member shall have the right to give the Control Notice to the Changing Member, the Company and the other Members. The other Members shall have the right (the "Buy-out Right") to acquire the Membership Interest of the Changing Member for the Fair Market Value thereof. Each Member (excluding the Changing Member) shall have the right (but not the obligation) to acquire a portion of the applicable Membership Interest that is equal to (I) the Sharing Ratio represented by such Membership Interest times (II) a fraction, the numerator of which is such Member's Sharing Ratio and the denominator of which is the total Sharing Ratios of all Members other than the Changing Member. Each Member (other than the Changing Member) shall have 30 Days following the determination of the Fair Market Value of such Membership Interest in which to notify the other Members (including the Changing Member) whether such Member desires to exercise its Buy-out Right. A notice in which a Member exercises such Buy-out Right is referred to herein as a "Change Exercise Notice," and a Member

that delivers a Change Exercise Notice is referred to herein as a "*Change Purchasing Member*". If the Change Purchasing Members constitute less than all of the Members (other than the Changing Member), and consequently, there is a portion of the Membership Interest for which such Buy-out Right has not been exercised (a "*Change Unexercised Portion*"), then each Change Purchasing Member shall have 20 Days following the end of such period in which to notify the other Change Purchasing Members and the Changing Member whether it desires to acquire the portion of the Change Unexercised Portion that is equal to (aa) the Sharing Ratio represented by the Change Unexercised Portion times (bb) a fraction, the numerator of which is such Change Purchasing Member's Sharing Ratio and the denominator of which is the total Sharing Ratios of all Change Purchasing Members. If, at the end of such 20-Day period, there remains a Change Unexercised Portion, then the Change Purchasing Members shall have an additional 10-Day period in which to negotiate among themselves for a mutually-agreeable method of sharing the acquisition of the remaining Change Unexercised Portion. If the Change Purchasing Members are able to reach such agreement during such 10-Day period, then the Buy-out Right shall be deemed exercised, and the Changing Member and the Change Purchasing Members shall close the acquisition of the Membership Interest in accordance with Section 3.03(b)(vi)(B). If, however, the Change Purchasing Members are unable to reach such agreement during such 10-Day period, then the Buy-out Right shall be deemed to have been waived. A Member that fails to exercise a right during any applicable period set forth in this Section 3.03(b)(vi)(A) shall be deemed to have waived such right for the subject Change of Member Control, but not any right for future Changes of Member Control.

(B) **Closing.** If the Buy-out Right is deemed exercised in accordance with Section 3.03(b)(vi)(A), the closing of the purchase of the Membership Interest shall occur at the principal place of business of the Company on the 30th Day after the expiration of the last applicable period referred to in such Section 3.03(b)(vi)(A) (or, if later, the fifth Business Day after the receipt of all applicable Authorizations to the purchase), unless the Changing Member and the Change Purchasing Members agree upon a different place or date. At the closing, (I) the Changing Member shall execute and deliver to the Change Purchasing Members (aa) an assignment of the Membership Interest, in form and substance reasonably acceptable to the Change Purchasing Members, containing a general warranty of title as to such Membership Interest (including that such Membership Interest is free and clear of all Encumbrances, other than those permitted under Section 3.03(c)(ii)) and (bb) any other instruments reasonably requested by the Change Purchasing Members to give effect to the purchase; and (II) the Change Purchasing Members shall deliver to the Changing Member in immediately-available funds the purchase price provided for in Section 3.03(b)(vi)(A). The Sharing Ratios and Capital Accounts of the Members shall be deemed adjusted to reflect the effect of the purchase.

(c) **Encumbrances of Membership Interest.** A Member may not Encumber its Membership Interest, except by complying with one of the two following paragraphs:

(i) (A) such Member must receive the consent of a Majority Interest of the non-Encumbering Members (calculated without reference to the Sharing Ratio of the Encumbering Member), which consent (as contemplated by Section 6.02(f)(ii)) may be

granted or withheld in the Sole Discretion of each such other Member; and (B) the instrument creating such Encumbrance must provide that any foreclosure of such Encumbrance (or Disposition in lieu of such foreclosure) must comply with the requirements of Sections 3.03(a) and (b); or

- (ii) such Encumbrance is required by the terms of a Financing Commitment.

3.04 *Creation of Additional Membership Interest.* Additional Membership Interests may be created and issued to existing Members or to other Persons, and such other Persons may be admitted to the Company as Members, with the consent of a Unanimous Interest, on such terms and conditions as a Unanimous Interest may determine at the time of admission. The terms of admission or issuance must specify the Sharing Ratios applicable thereto and may provide for the creation of different classes or groups of Members having different rights, powers, and duties. Any such admission is effective only after the new Member has executed and delivered to the Members an instrument containing the notice address of the new Member and, if applicable, the Parent of the Assignee, the Assignee's ratification of this Agreement and agreement to be bound by it, and its confirmation that the representations and warranties in Section 3.02 are true and correct with respect to it. The provisions of this Section 3.04 shall not apply to Dispositions of Membership Interests or admissions of Assignees in connection therewith, such matters being governed by Sections 3.03(a) and (b).

3.05 *Access to Information.* Each Member shall be entitled to receive any information that it may request concerning the Company; provided, however, that this Section 3.05 shall not obligate the Company or the Management Committee to create any information that does not already exist at the time of such request (other than to convert existing information from one medium to another, such as providing a printout of information that is stored in a computer database). Each Member shall also have the right, upon reasonable notice, and at all reasonable times during usual business hours to inspect the properties of the Company and to audit, examine and make copies of the books of account and other records of the Company. Such right may be exercised through any agent or employee of such Member designated in writing by it or by an independent public accountant, engineer, attorney or other consultant so designated. The Member making the request shall bear all costs and expenses incurred in any inspection, examination or audit made on such Member's behalf. Confidential Information obtained pursuant to this Section 3.05 shall be subject to the provisions of Section 3.06.

3.06 *Confidential Information.* (a) Except as permitted by Section 3.06(b), (i) each Member shall keep confidential all Confidential Information and shall not disclose any Confidential Information to any Person, including any of its Affiliates, and (ii) each Member shall use the Confidential Information only in connection with the Facilities and the Company.

(b) Notwithstanding Section 3.06(a), but subject to the other provisions of this Section 3.06, a Member may make the following disclosures and uses of Confidential Information:

- (i) disclosures to another Member or to the Operator in connection with the Company;
- (ii) disclosures and uses that are approved by the Management Committee;

(iii) disclosures that may be required from time to time to obtain requisite Authorizations or financing for the Initial Facilities or a Modification or Extension approved by the Management Committee, if such disclosures are approved by the Management Committee:

(iv) disclosures to an Affiliate of such Member (A) necessary for obtaining board approvals or as reasonably required for reporting purposes, and (B) on a "need to know" basis in furtherance of the business of the Company, if such Affiliate has agreed to abide by the terms of this Section 3.06, and special care shall be taken to restrict such disclosures in any case where such Affiliate is or may become a Shipper:

(v) disclosures to a Person that is not a Member or an Affiliate of a Member, if such Person has been retained by the Company, a Member or the Operator to provide services in connection with the Company or a Member's Membership Interest and has agreed to abide by the terms of this Section 3.06:

(vi) disclosures to a bona-fide potential direct or indirect purchaser of such Member's Membership Interest, if such potential purchaser has agreed to abide by the terms of this Section 3.06:

(vii) disclosures that a Member is legally compelled to make by deposition, interrogatory, request for documents, subpoena, civil investigative demand, order of a court of competent jurisdiction, or similar process, or otherwise by Law or securities exchange requirements; provided, however, that, prior to any such disclosure, such Member shall, to the extent legally permissible:

(A) provide the Management Committee with prompt notice of such requirements so that one or more of the Members may seek a protective order or other appropriate remedy or waive compliance with the terms of this Section 3.06(b)(vii);

(B) consult with the Management Committee on the advisability of taking steps to resist or narrow such disclosure; and

(C) cooperate with the Management Committee and with the other Members in any attempt one or more of them may make to obtain a protective order or other appropriate remedy or assurance that confidential treatment will be afforded the Confidential Information; and in the event such protective order or other remedy is not obtained, or the other Members waive compliance with the provisions hereof, such Member agrees to furnish only that portion of the Confidential Information that, in the opinion of such Member's counsel, such Member is legally required to disclose.

(c) Each Member shall take such precautionary measures as may be required to ensure (and such Member shall be responsible for) compliance with this Section 3.06 by any of its Affiliates, and its and their directors, officers, employees and agents, and other Persons to which it may disclose Confidential Information in accordance with this Section 3.06.

(d) Promptly after its Withdrawal, a Withdrawn Member shall destroy (and provide a certificate of destruction to the Company with respect to), or return to the Company, all Confidential Information in its possession. Notwithstanding the immediately-preceding sentence, but subject to the other provisions of this Section 3.06, a Withdrawn Member may retain for a stated period, but not disclose to any other Person, Confidential Information for the limited purposes of (i) explaining such Member's corporate decisions with respect to the Facilities or (ii) preparing such Member's tax returns and defending audits, investigations and proceedings relating thereto; provided, however, that the Withdrawn Member must notify the Management Committee in advance of such retention and specify in such notice the stated period of such retention.

(e) The Members agree that no adequate remedy at law exists for a breach or threatened breach of any of the provisions of this Section 3.06, the continuation of which unremedied will cause the Company and the other Members to suffer irreparable harm. Accordingly, the Members agree that the Company and the other Members shall be entitled, in addition to other remedies that may be available to them, to immediate injunctive relief from any breach of any of the provisions of this Section 3.06 and to specific performance of their rights hereunder, as well as to any other remedies available at law or in equity, pursuant to Section 12.04.

(f) The obligations of the Members under this Section 3.06 (including the obligations of any Withdrawn Member) shall terminate on the second anniversary of the end of the Term.

3.07 ***Liability to Third Parties.*** No Member or its Affiliates shall be liable for the debts, obligations or liabilities of the Company.

ARTICLE 4 CAPITAL CONTRIBUTIONS

4.01 ***Pre-Effective Date Expenditures.*** (a) If any Member, or Affiliate thereof, has made Pre-Effective Date Expenditures during the period preceding the Effective Date, such Member shall have the right to request approval thereof by the Management Committee as soon as practicable after the Effective Date (but not later than 90 Days after the Effective Date). It is currently estimated that the amount of Pre-Effective Date Expenditures of Duke Energy and KeySpan to be approved pursuant to this Section 4.01(a) are \$56,000.00 and \$20,000.00, respectively. If any Pre-Effective Date Expenditure of a Member is not approved pursuant to this Section 4.01, such Member shall have the right to submit to arbitration pursuant to Article 12 the issue of whether such expenditure was reasonably and appropriately incurred, and any such Pre-Effective Date Expenditures determined by arbitration to have been reasonably and appropriately incurred shall be deemed approved by the Management Committee for purposes of this Agreement.

(b) The books and records of each Member that relate to such Member's Pre-Effective Date Expenditures shall be subject to audit pursuant to Section 3.05 until the first anniversary of the Effective Date. If an audit reveals a discrepancy in a Pre-Effective Date Expenditure, an appropriate revision to such Pre-Effective Date Expenditure shall be proposed to the Management Committee for its approval.

(c) After all Pre-Effective Date Expenditures to be considered under Section 4.01(a) have been approved or disapproved by the Management Committee, the applicable Member shall make

a cash Capital Contribution to the Company in such amount as shall cause the Members' Capital Contributions to be pro rata based upon their Sharing Ratios. If any revisions are thereafter made pursuant to this Section 4.01(c), appropriate adjustments between the Members shall be made in the Capital Contributions (as referred to in this Section 4.01(d)) so as to achieve the pro rata result contemplated by such Sections.

(d) All Pre-Effective Date Expenditures that are approved by the Management Committee pursuant to this Section 4.01 shall constitute Capital Contributions.

4.02 Subsequent Capital Contributions. (a) Except as otherwise provided in Section 4.01, 4.03, 7.03 or 7.04, the Management Committee shall issue or cause to be issued a written request to each Member for the making of Capital Contributions at such times and in such amounts as the Management Committee shall approve. Such Capital Contributions shall be made in cash. All amounts received by the Company pursuant to this Section 4.02, whether received prior to, on or after the date specified in Section 4.02(b)(iv), shall be credited to the respective Member's Capital Account as of such specified date (and the Pre-Effective Date Expenditures approved pursuant to Section 4.01 shall be so credited as of the Effective Date). All amounts received from a Member after the date specified in Section 4.02(b)(iv) by the Company pursuant to this Section 4.02 shall be accompanied by interest on such overdue amounts (and the default shall not be cured unless such interest is also received by the Company), which interest shall be payable to the Company and shall accrue from and after such specified date at the Default Rate. Any such interest paid with respect to a Capital Contribution shall be credited to the respective Capital Accounts of all the Members, on a pro rata basis in accordance with their respective Sharing Ratios as of the date such payment is made to the Company after giving effect to the payment of the Capital Contribution with respect to which such interest accrued.

(b) Each written request issued pursuant to Section 4.02(a) shall contain the following information:

- (i) The total amount of Capital Contributions requested from all Members;
- (ii) The amount of Capital Contribution requested from the Member to whom the request is addressed, such amount to be in accordance with the Sharing Ratio of such Member;
- (iii) The purpose for which the funds are to be applied in such reasonable detail as the Management Committee shall direct; and
- (iv) The date on which payments of the Capital Contribution shall be made (which date shall not be less than 30 Days following the date the request is given, unless an earlier date is approved by the Management Committee) and the method of payment, provided that such date and method shall be the same for each of the Members.

(c) Each Member agrees that it shall make payments of its respective Capital Contributions in accordance with requests issued pursuant to Section 4.02(a).

4.03 No Other Contribution Obligations. No Member shall be required or permitted to make any Capital Contributions to the Company except pursuant to this Article 4.

4.04 **Return of Contributions.** Except as expressly provided herein, a Member is not entitled to the return of any part of its Capital Contributions or to be paid interest in respect of either its Capital Account or its Capital Contributions. An unrepaid Capital Contribution is not a liability of the Company or of any Member. A Member is not required to contribute or to lend any cash or property to the Company to enable the Company to return any Member's Capital Contributions.

4.05 **Loans.**

(a) If, at any time after the Capital Contributions referred to in Section 4.01 have been made, the Management Committee determines that the Company needs funds, rather than calling for Capital Contributions the Management Committee may issue or cause to be issued a written request to each Member for the making of loans or advances to the Company at such times and in such amounts as the Management Committee shall approve, by a Unanimous Interest, provided that the Management Committee shall not call for loans or advances rather than Capital Contributions if doing so would breach any Financing Commitment or other agreement of the Company. All amounts received from a Member after the date approved by the Management Committee by the Company pursuant to this Section shall be accompanied by interest on such overdue amounts (and the default shall not be cured unless such interest is also received by the Company), which interest shall be payable to the Company and shall accrue from and after such specified date at a rate equal to the Default Interest Rate. Any such interest paid shall be credited to the respective Capital Accounts of all the Members, on a pro rata basis in proportion to their respective Sharing Ratios as of the date such payment is made to the Company, but shall not be considered part of the principal of the loan.

(b) Each Member agrees that it shall make its respective loans or advances in accordance with requests issued pursuant to Section 4.05(a).

4.06 **Capital Accounts.** (a) A Capital Account shall be established and maintained for each Member. Each Member's Capital Account shall be increased by (i) the amount of money contributed by that Member to the Company (including Pre-Effective Date Expenditures, to the extent approved by KeySpan and Duke Energy or the Management Committee (as applicable), and AFUDC, to the extent approved by the Management Committee), and (ii) the fair market value, as determined under Section 4.08, of property contributed by that Member to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Section 752 of the Code), (iii) allocations to that Member of Company income and gain (or items thereof), including income and gain exempt from tax and income and gain described in Treasury Regulation '1.704-1(b)(2)(iv)(g), but excluding income and gain described in Treasury Regulation '1.704-1(b)(4)(i), and shall be decreased by (iv) the amount of money distributed to that Member by the Company, (v) the fair market value, as determined under Section 4.08, of property distributed to that Member by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Section 752 of the Code), (vi) allocations to that Member of expenditures of the Company described (or treated as described) in Section 705(a)(2)(B) of the Code, and (vii) allocations of Company loss and deduction (or items thereof), including loss and deduction described in Treasury Regulation '1.704-1(b)(2)(iv)(g), but excluding items described in (vi) above and loss or deduction described in Treasury Regulation '1.704-1(b)(4)(i) or 1.704-1(b)(4)(iii). The Capital Accounts shall also be maintained and adjusted as permitted by the provisions of Treasury Regulation '1.704-1(b)(2)(iv)(f) and as required by the other provisions of Treasury Regulation "1.704-1(b)(2)(iv) and 1.704-1(b)(4), including adjustments

to reflect the allocations to the Members of depreciation, depletion, amortization, and gain or loss as computed for book purposes rather than the allocation of the corresponding items as computed for tax purposes, as required by Treasury Regulation ' 1.704-1(b)(2)(iv)(g). Thus, the Capital Accounts shall be increased or decreased to reflect a revaluation of the Company's property on its books based on the fair market value of the Company's property on the date of adjustment (as determined pursuant to Section 4.08), immediately prior to (a) the contribution of money to the Company by a new or existing Member as consideration for a Membership Interest or an increased Sharing Ratio, (b) the distribution of money or other property by the Company to a Member as consideration for a Membership Interest, or (c) the liquidation of the Company. Upon the Disposition of all or a portion of a Membership Interest, the Capital Account of the Disposing Member that is attributable to such Membership Interest shall carry over to the Assignee in accordance with the provisions of Treasury Regulation ' 1.704-1(b)(2)(iv)(l). The Capital Accounts shall not be deemed to be, nor have the same meaning as, the capital account of the Company under the NGA.

4.07 The Capital Account of each Member shall be established and maintained such that any allocation under this Agreement has "substantial economic effect" under the principles of Code Section 704(b) and the Regulations thereunder. If the Capital Account maintenance provisions of this Agreement do not completely satisfy the requirements for a substantial economic effect under those authorities, the Capital Account(s) shall be adjusted as necessary to cause it to be in compliance.

4.08 Whenever the fair market value of the Company's property is required to be determined pursuant to Section 4.06, the Operator shall propose such a fair market value in a notice to the other Members. If any other Member disagrees with such determination, such Member shall notify the other Members of such disagreement within 10 Business Days of receiving such notice. If such dispute is not resolved within five Business Days after the notice of such dispute, the dispute will be resolved pursuant to the procedures set forth in Article XII. All of the provisions of Article XII shall apply to such dispute, with the exception that the arbitrator selected pursuant to Article XII shall be an appraiser or investment banking firm having expertise in the valuation of interstate natural gas transmission pipelines.

ARTICLE 5 DISTRIBUTIONS AND ALLOCATIONS

5.01 **Distributions.** Distributions to the Members shall be made only to all Members (other than a Breaching or, except as provided in Section 11.03(e), a Withdrawn Member) simultaneously in accordance with their respective Sharing Ratios (at the time the amounts of such distributions are determined) and in such aggregate amounts and at such times as shall be determined by the Management Committee.

5.02 **Distributions on Dissolution and Winding Up.** Upon the dissolution and winding up of the Company, all available proceeds distributable to the Members as determined under Section 13.02 shall be distributed to the Members (other than a Breaching or, except as provided in Section 11.03(e), Withdrawn Member) in accordance with their respective Sharing Ratios.

5.03 *Allocations.*

(a) Except to the extent provided in Section 5.03(b) below, for purposes of maintaining the Capital Accounts pursuant to Section 4.06 and for income tax purposes each item of income, gain, loss, deduction and credit of the Company shall be allocated to the Members in accordance with their Sharing Ratios.

(b) If and to the extent necessary to adjust Capital Accounts to be in a ratio equal to the Members' Sharing Ratios, then notwithstanding section 5.03(a) hereof, all items of income, gain, loss and deduction as determined for book purposes (within the meaning of Treasury Regulations Section 1.704-1(b)(2)(iv)(g)) shall be allocated among the Members and credited or debited to their respective Capital Accounts in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv), so as to ensure to the maximum extent possible (i) that such allocations satisfy the economic effect equivalence test of Treasury Regulations Section 1.704-1(b)(2)(ii)(i) (as provided hereinafter) and (ii) that all allocations of items that cannot have economic effect (including credits and nonrecourse deductions) are allocated to the Members in accordance with their Sharing Ratios unless otherwise required by Code Section 704(b) and the Treasury Regulations promulgated thereunder. To the extent possible, items that can have economic effect shall be allocated in such a manner that the balance of each Member's Capital Account at the end of any fiscal year (increased by such Member's "share of partnership minimum gain" and/or "partner nonrecourse debt minimum gain" as defined in Treasury Regulations Section 1.704-2) would be positive to the extent of the amount of cash that such Member would receive (or would be negative to the extent of the amount of cash that such Member should be required to contribute to the Company, if applicable) if the Company sold all of its property for an amount of cash equal to the book value (as determined pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)) of such property (reduced, but not below zero, by the amount of nonrecourse debt to which such property is subject) and all of the cash of the Company remaining after payment of all liabilities (other than nonrecourse liabilities) of the Company were distributed in liquidation immediately following the end of such fiscal year in accordance with Section 5.02.

(c) For income tax purposes, income, gain, loss, and deduction with respect to property contributed to the Company by a Member or revalued pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(f) shall be allocated among the Members in a manner that takes into account the variation between the adjusted tax basis of such property and its book value, as required by Section 704(c) of the Code and Treasury Regulation Section 1.704-1(b)(4)(i), using the remedial allocation method permitted by Treasury Regulation Section 1.704-3(d).

5.04 *Varying Interests.* All items of income, gain, loss, deduction or credit shall be allocated, and all distributions shall be made, to the Persons shown on the records of the Company to have been Members as of the last calendar day of the period for which the allocation or distribution is to be made. Notwithstanding the foregoing, if during any taxable year there is a change in any Member's Sharing Ratio, the Members agree that their allocable shares of such items for the taxable year shall be determined on any method determined by the Management Committee to be permissible under Code Section 706 and the related Treasury Regulations to take account of the Members' varying Sharing Ratios.

ARTICLE 6 MANAGEMENT

6.01 *Generally.* The management of the Company is fully vested in the Members. To facilitate the orderly and efficient management of the Company, the Members shall act (a) collectively as a "committee of the whole" (named the Management Committee) pursuant to Section 6.02, and (b) through the delegation of certain duties and authority to the Operator pursuant Section 6.03 and the CO&M Agreement. Subject to the express provisions of this Agreement, each Member agrees that it will not exercise its authority under the Act to bind or commit the Company to agreements, transactions or other arrangements, or to hold itself out as an agent of the Company.

6.02 *Management Committee.* The major policies of the Company shall be established by the Management Committee, which, except as otherwise provided in this agreement, shall have exclusive authority with respect to supervising the affairs of the Company and making all decisions with respect thereto. Decisions or actions taken by the Management Committee in accordance with the provisions of this Agreement shall constitute decisions or actions by the Company and shall be binding on each Member, Representative, Officer and employee of the Company. The Management Committee shall conduct its affairs in accordance with the following provisions and the other provisions of this Agreement:

(a) *Representatives.*

(i) *Designation.* To facilitate the orderly and efficient conduct of Management Committee meetings, each Member shall notify the other Members, from time to time, of the identity of (A) one of its officers, employees or agents who will represent it at such meetings (a "Representative"), and (B) two of its officers, employees or agents, one of whom will represent it at any meeting that the Member's Representative is unable to attend (each an "Alternate Representative" and collectively, the "Alternate Representatives"). (The term "Representative" shall also refer to any Alternate Representative that is actually performing the duties of the applicable Representative.). The initial Representative and Alternate Representatives of each Member are set forth in Exhibit A. A Member may designate a different Representative or Alternate Representative for any meeting of the Management Committee by notifying each of the other Members at least three Business Days prior to the scheduled date for such meeting; provided, however, that if giving such advance notice is not feasible, then such new Representative or Alternate Representative shall present written evidence of his or her authority at the commencement of such meeting.

(ii) *Authority.* Each Representative shall have the full authority to act on behalf of the Member that designated such Representative; the action of a Representative at a meeting (or through a written consent) of the Management Committee shall bind the Member that designated such Representative; and the other Members shall be entitled to rely upon such action without further inquiry or investigation as to the actual authority (or lack thereof) of such Representative. In addition, the act of an Alternate Representative shall be deemed the act of the

Representative for which such Alternate Representative is acting, without the need to produce evidence of the absence or unavailability of such Representative.

(iii) **DISCLAIMER OF DUTIES; INDEMNIFICATION.** EACH REPRESENTATIVE SHALL REPRESENT, AND OWE DUTIES TO, ONLY THE MEMBER THAT DESIGNATED SUCH REPRESENTATIVE (THE NATURE AND EXTENT OF SUCH DUTIES BEING AN INTERNAL CORPORATE AFFAIR OF SUCH MEMBER), AND NOT TO THE COMPANY, ANY OTHER MEMBER OR REPRESENTATIVE, OR ANY OFFICER OR EMPLOYEE OF THE COMPANY. THE PROVISIONS OF SECTION 6.02(f)(ii) SHALL ALSO INURE TO THE BENEFIT OF EACH MEMBER'S REPRESENTATIVE. THE COMPANY SHALL INDEMNIFY, PROTECT, DEFEND, RELEASE AND HOLD HARMLESS EACH REPRESENTATIVE FROM AND AGAINST ANY CLAIMS ASSERTED BY OR ON BEHALF OF ANY PERSON (INCLUDING ANOTHER MEMBER(S)), OTHER THAN THE MEMBER THAT DESIGNATED SUCH REPRESENTATIVE, THAT ARISE OUT OF, RELATE TO OR ARE OTHERWISE ATTRIBUTABLE TO, DIRECTLY OR INDIRECTLY, SUCH REPRESENTATIVE'S SERVICE ON THE MANAGEMENT COMMITTEE.

(iv) **Attendance.** Each Member shall use all reasonable efforts to cause its Representative or Alternate Representative to attend each meeting of the Management Committee, unless its Representative is unable to do so because of a "force majeure" event or other event beyond his reasonable control, in which event such Member shall use all reasonable efforts to cause its Representative or Alternate Representative to participate in the meeting by telephone pursuant to Section 6.02(h).

(b) **Chairman and Secretary.** One Representative of the Members will be designated as Chairman of the Management Committee to preside over meetings of the Management Committee. From the Effective Date until the end of the calendar year in which the In-service Date of the Initial Facilities occur, the Chairman shall be Duke Energy's Representative. For the next calendar year the Chairman shall be KeySpan. Thereafter, the Chairmanship shall be rotated on an annual basis among the Representatives of the Members, with such rotation proceeding in alphabetical order of the Member's names which have a Sharing Ration of at least twenty percent (20%) unless otherwise agreed to by a Unanimous Vote. Any Member may resign its Chairmanship or may waive its right to the Chairmanship. The Management Committee shall also designate a Secretary of the Management Committee, who need not be a Representative.

(c) **Procedures.** The Secretary of the Management Committee shall maintain written minutes of each of its meetings, which shall be submitted for approval at least 5 days prior to the next regularly scheduled meeting. The Management Committee may adopt whatever rules and procedures relating to its activities as it may deem appropriate, provided that such rules and procedures shall not be inconsistent with or violate the provisions of this Agreement.

(d) **Time and Place of Meetings.** The Management Committee shall meet quarterly, subject to more or less frequent meetings upon approval of the Management Committee. Notice of, and an agenda for, all Management Committee meetings shall be provided by the Chairman to all Members at least five Days prior to the date of each

meeting, together with proposed minutes of the previous Management Committee meeting (if such minutes have not been previously ratified). Special meetings of the Management Committee may be called at such times, and in such manner, as any Member deems necessary. Any Member calling for any such special meeting shall notify the Chairman, who in turn shall notify all Members of the date and agenda for such meeting at least five Days prior to the date of such meeting. Such five-Day period may be shortened by the Management Committee, acting through a Unanimous Interest. All meetings of the Management Committee shall be held at a location designated by the Chairman. Attendance of a Member at a meeting of the Management Committee shall constitute a waiver of notice of such meeting, except where such Member attends the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(e) **Quorum.** The presence of a Member and a majority of the Sharing Ratio shall constitute a quorum for the transaction of business at any meeting of the Management Committee.

(f) **Voting.**

(i) **Voting by Sharing Ratios; Voting Thresholds.** Except as provided otherwise in this Agreement, voting shall be according to the Members' respective Sharing Ratios. Set forth below are definitions of the principal voting thresholds that are required to approve certain actions (such thresholds being subject to adjustment pursuant to Section 6.02(f)(iii)):

(A) **"Unanimous Interest"** means all of the Members; and

(B) **"Majority Interest"** means two or more Members holding among them at least a majority of the Sharing Ratios; provided, however, that any Members that are Affiliates of one another shall count as a single Member for purposes of determining whether two or more Members have approved the applicable matter.

Except for matters that require the approval of a Unanimous Interest, the vote of a Majority Interest shall constitute the action of the Management Committee.

(ii) **DISCLAIMER OF DUTIES.** WITH RESPECT TO ANY VOTE, CONSENT OR APPROVAL AT ANY MEETING OF THE MANAGEMENT COMMITTEE OR OTHERWISE UNDER THIS AGREEMENT, EACH MEMBER MAY GRANT OR WITHHOLD SUCH VOTE, CONSENT OR APPROVAL (A) IN ITS SOLE AND ABSOLUTE DISCRETION, (B) WITH OR WITHOUT CAUSE, (C) SUBJECT TO SUCH CONDITIONS AS IT SHALL DEEM APPROPRIATE, AND (D) WITHOUT TAKING INTO ACCOUNT THE INTERESTS OF, AND WITHOUT INCURRING LIABILITY TO, THE COMPANY, ANY OTHER MEMBER OR REPRESENTATIVE, OR ANY OFFICER OR EMPLOYEE OF THE COMPANY (COLLECTIVELY, "SOLE DISCRETION"). THE PROVISIONS OF THIS SECTION 6.02(f)(ii) SHALL APPLY NOTWITHSTANDING THE NEGLIGENCE, GROSS NEGLIGENCE,

WILLFUL MISCONDUCT, STRICT LIABILITY OR OTHER FAULT OR RESPONSIBILITY OF A MEMBER OR ITS REPRESENTATIVE.

(iii) ***Exclusion of Certain Members and Their Sharing Ratios.*** With respect to any vote, consent or approval, any Breaching Member or Withdrawn Member shall be excluded from such decision (as contemplated by Section 11.03(b)), and the Sharing Ratio of such Breaching Member or Withdrawn Member shall be disregarded in calculating the voting thresholds in Section 6.02(f)(i). In addition, if any other provision of this Agreement provides that a Majority Interest or Unanimous Interest is to be calculated without reference to the Sharing Ratio of a particular Member, then the applicable voting threshold in Section 6.02(f)(i) shall be deemed adjusted accordingly.

(g) ***Action by Written Consent.*** Any action required or permitted to be taken at a meeting of the Management Committee may be taken without a meeting, without prior notice, and without a vote if a consent or consents in writing, setting forth the action so taken, is signed by the Members that could have taken the action at a meeting of the Management Committee.

(h) ***Meetings by Telephone.*** Members may participate in and hold meeting by means of conference telephone, videoconference or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such a meeting shall constitute presence in person at such meeting, except where a Member participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(i) ***Matters Requiring Management Committee Approval.*** Notwithstanding any other provision of this Agreement, none of the following actions may be taken by, or on behalf of, the Company without first obtaining the vote of the Management Committee described below:

(i) ***Unanimous Interest.*** The following actions shall require the approval of a Unanimous Interest:

(A) dissolution of the Company pursuant to Section 12.01(a);

(B) causing or permitting the Company to become Bankrupt (but this provision shall not be construed to require any Member to ensure the profitability or solvency of the Company);

(C) the Disposition or abandonment of all or substantially all of the Company's assets;

(D) causing or permitting the Company to merge, consolidate or convert into any other entity;

(E) considering at a meeting of the Management Committee a matter not on the agenda for that meeting;

- (F) selecting a different name for the Company;
- (G) designating a new Chairman;
- (H) selecting a new Operator; and
- (I) any other action that, pursuant to an express provision of this Agreement, requires the approval of a Unanimous Interest.

(ii) **Majority Interest.** A Majority Interest shall be required to approve any other action that: (A) pursuant to an express provision of this Agreement, requires the approval of a Majority Interest or (B) requires the approval of the Management Committee but does not expressly require the approval of a Unanimous Interest.

(j) **Subcommittees.** The Management Committee may create such subcommittees, and delegate to such subcommittees such authority and responsibility, and rescind any such delegations, as it may deem appropriate.

(k) **Officers.** The Management Committee may designate one or more Persons to be Officers of the Company. Any Officers so designated shall have such titles and, subject to the other provisions of this Agreement, have such authority and perform such duties as the Management Committee may delegate to them and shall serve at the pleasure of the Management Committee and report to the Management Committee.

6.03 ***Indemnification for Breach of Agreement.*** Each Member shall indemnify, protect, defend, release and hold harmless each other Member, its Representatives, its Affiliates, and its and their respective directors, officers, trustees, employees and agents from and against any Claims asserted by or on behalf of any Person (including another Member) that result from a breach by the indemnifying Member of this Agreement; provided, however, that this Section 6.03 shall not (a) apply to any Claim or other matter for which a Member (or its Representative) has no liability or duty, or is indemnified or released, pursuant to Section 6.02(a)(iii), 6.02(f)(ii) or 6.04 or pursuant to the terms of the CO&M or (b) hold the indemnified Person harmless from special, consequential or exemplary damages, except in the case where the indemnified Person is legally obligated to pay such damages to another Person.

6.04 ***Member Support.*** The Members shall in good faith support all aspects of the Initial Facilities, Modifications and Extensions approved by the Management Committee, including all proceedings to obtain necessary federal, state, and local approvals to construct and operate such approved Initial Facilities, Modifications and Extensions, and shall support the actions of the Management Committee; provided, however, that a Member shall not be obligated to provide support for a Modification or Extension if that Member did not vote in favor of the Modification

ARTICLE 7 DEVELOPMENT OF FACILITIES

7.01 ***Development of the Initial Facilities, Modifications, and Extensions .***

(a) ***The Initial Facilities.*** The Operator shall promptly bring before the Management Committee the proposal for development of the Initial Facilities, which shall contain details thereof, including the geographic location thereof, the date the Initial Facilities are to be available for natural gas transportation service, appropriate engineering details, the Estimated Cost of the Initial Facilities, the proposed financing plan, the market for the Initial Facilities and any commitments therefor, and such other information as may be reasonably required by the Management Committee to determine the economic viability of the Initial Facilities.

(b) ***Members' Pipeline Facilities Obligation.*** During the term of this Agreement, each Member shall bring before the Management Committee, in the form of a request for approval by the Management Committee, each Modification or Extension that such Member is interested in implementing.

(c) ***Request for Implementation of Pipeline Facilities.*** Each request for implementation of a Modification or Extension referred to in Section 7.01(b) shall contain details of the proposed Modification or Extension, the date on which the proposed Modification or Extension is or are to be available for service, appropriate engineering details, the Estimated Cost of the Modification or Extension, the proposed financing plan, the market for such Modification or Extension and any commitments therefor, and such other information as may be reasonably required by the Management Committee to determine the economic viability of the development of the Modification or Extension.

(d) ***Management Committee Approval.*** Within thirty (30) days of the receipt of the information described in Section 7.01(a) or (c), as applicable, the Management Committee shall vote on the approval of proceeding with the development of the Initial Facilities or request for implementing the Modification or Extension.

(i) In the event the vote of the Management Committee to proceed with the development of the Initial Facilities is by a Unanimous Interest, the development of the Initial Facilities shall be undertaken by the Company pursuant to the provisions of this Agreement. In the event the vote of the Management Committee is not by a Unanimous Interest, then the Management Committee shall promptly endeavor to approve a revised Initial Facilities. In the event the vote of the Management Committee to proceed with the development of the revised Initial Facilities is not by a Unanimous Interest, then such vote shall be a Dissolution Event and the Company shall be dissolved and its affairs wound up pursuant to Article 13.

(ii) In the event the vote of the Management Committee to proceed with the development of a Modification is by a 50% Interest or to proceed with the development of an Extension is by a Majority Interest, then the development of the Modification or Extension, as applicable, shall be undertaken by the Company under the provisions of this Agreement and the Members who voted against (or did not vote in favor of) proceeding with the development of the Modification or Extension may elect, immediately following such negative vote, not to make any Capital Contributions to fund the Modification or Extension, but to have its future Commitment to such Modification or Extension reduced to zero. In such event the Member or Members electing to proceed with the Modification or Extension shall

make Capital Contributions for the Modification or Extension as directed by the Management Committee in proportion to their respective Sharing Ratios as of the date the cash calls thereafter are issued by the Management Committee. Thereafter, the Sharing Ratio of each Member shall be adjusted, from time to time, so that each Member's Sharing Ratio is equal to the Ratio of that Member's Capital Contributions to all Member's Capital Contributions.

(iii) In the event the vote of the Management Committee to proceed with a Modification is not by a 50% Interest, then the Modification shall not be developed or proceed.

(iv) In the event the vote of the Management Committee to proceed with an Extension is not by a Majority Interest, then the Extension shall not be developed by the Company and the Members which voted to proceed with the Extension shall be free to proceed with the Extension outside the provisions of this Agreement.

7.02 FERC Application. The Operator shall prepare and file the FERC Application for any Facilities approved by Unanimous, Majority, or 50% Interest of the Management Committee, as the case may be, pursuant to Section 7.01(d). Any such filing must meet the minimum rules required by the FERC Rules and Regulations.

7.03 Acceptance of FERC Certificate. No later than ten (10) days prior to the FERC Response Date, the Management Committee shall vote on the FERC Certificate to (i) accept the FERC Certificate without seeking rehearing, (ii) accept the FERC Certificate and seek rehearing, (iii) seek rehearing of the FERC Certificate without acceptance, or (iv) reject the FERC Certificate. A Member who voted in favor of developing the facilities which are the subject of the FERC Certificate must vote to accept the FERC Certificate if the FERC Certificate is issued on terms which are substantially the same as those requested in the FERC Application or any amendments by Company to that application.

(i) If the Management Committee Vote for acceptance of the FERC Certificate for the Initial Facilities is by a Unanimous Interest or for acceptance of a FERC Certificate for a Modification is by a 50% Interest or for an Extension is by a Majority Interest, then development of the Initial Facilities, Modification or Extension, as the case may be, shall proceed by the Company under this Agreement.

(ii) If the Management Committee Vote to accept the FERC Certificate for the Initial Facilities is not by a Unanimous Interest, then the Member or Members who voted in favor of accepting the FERC Certificate may proceed with the development of the Initial Facilities pursuant to the provisions of this Agreement, and the Member or Members who voted against acceptance of the FERC Certificate shall be deemed to have Withdrawn from the Company.

(iii) If the Management Committee Vote for rejection without rehearing of the FERC Certificate for the Initial Facilities is by a unanimous interest, then such vote shall be a Dissolution Event and the Company shall be dissolved and its affairs wound up pursuant to Article 13.

(iv) If the vote of the Management Committee to accept the FERC Certificate for a Modification is by a 50% Interest or for an Extension is by Majority Interest, then the Member or Members who voted in favor of the acceptance of the FERC Certificate may proceed with the development of the Modification or Extension under this Agreement and each Member who voted against acceptance of the FERC Certificate or did not vote may elect, immediately following such negative vote, not to make any Capital Contributions for the Modification or Extension, but may have its future Commitment to such Modification or Extension reduced to zero. In such event, the Member or Members voting in favor of acceptance of the FERC Certificate shall make Capital Contributions for such Modification or Extension as directed by the Management in proportion to their respective Sharing Ratios as of the date the cash call is issued by the Management Committee. Thereafter, the Sharing Ratio of each Member shall be adjusted, from time to time, so each Member's Sharing Ratio is equal to the Ratio of that Member's Capital Account to all Members' Capital Accounts.

(v) If the vote of the Management Committee to accept the FERC Certificate for a Modification is not by a 50% Interest, then the Modification shall not be developed or proceed.

(vi) If the vote of the Management Committee to accept the FERC Certificate for an Extension is not by a Majority Interest, then the Extension shall not be developed by the Company and the Members voting in favor of the FERC Certificate shall be free to proceed with the Extension outside the provisions of this Agreement.

7.04 Conditions to Construction of the Initial Facilities. Except upon a vote by Unanimous Interest of the Management Committee, the Company shall not incur material costs or obligations with respect to the Initial Facilities or be obligated under the Financing Commitment relating to the Initial Facilities until (i) the Necessary Regulatory Approvals for the Initial Facilities have been accepted, (ii) the Financing Commitment for the Initial Facilities has been negotiated and is ready for acceptance by the Company (with the Management Committee to decide whether such Financing Commitment utilizes a Financing Corporation, (iii) the Estimated Cost of the Initial Facilities has been determined by the Operator, and (iv) the Management Committee has approved the commitment to construct the Initial Facilities as provided in Section 7.06; provided, however, that the Company is authorized to expend up to \$2.5 million in the development of the Initial Facilities without the necessity of any vote or consent of the Management Committee other than directing how that sum is to be spent.

7.05 Conditions to Construction of a Modification or Extension. Except upon a vote of the Management Committee by a 50% Interest in the case of a Modification or by a Majority Interest in the case of an Extension, the Company shall not incur material costs or obligations with respect to any Modification or Extension or be obligated under the Financing Commitment relating to a Modification or Extension until (i) the necessary Regulatory Approvals for a Modification or Extension have been accepted, (ii) the Financing Commitment for a Modification or Extension has been negotiated and is ready for acceptance by the Company (with the Management Committee to decide whether such Financing Commitment utilizes a Financing Corporation) (iii) the Estimated Cost of a Modification or Extension has

been determined by the Operator, and (iv) the Management Committee has approved the commitment to construct a Modification or Extension as provided in Section 7.07.

7.06 Construction Vote for Initial Facilities. Immediately following the last to occur of the events referred to in Section 7.04(i), 7.04(ii) and 7.04(iii) (provided that the requirement of the occurrence of any of the preceding events may be waived by a Unanimous Interest) the Management Committee shall vote on whether the Company shall be committed to construct the Initial Facilities and accept the Financing Commitment for the Initial Facilities. If there is a Majority Interest vote to commit the Company to construct the Initial Facilities but the vote of the Management Committee is not by a Unanimous Interest, the Member(s) that did not vote in favor of such commitment shall be deemed to be Withdrawn Member(s), and notwithstanding any other provision of this Agreement, the Member(s) that voted in favor of such commitment shall be free to proceed in accordance with this Agreement, a Majority Interest being deemed the requisite vote of the Management Committee and an affirmative Construction Vote for the Initial Facilities. A Member must vote to commit the Company to construct the Initial Facilities if such Member voted to accept the certificate for the Initial Facilities in accordance with Section 7.03, unless there is a change in the Financing Commitment which results in a Material Adverse Effect on the economics of the Initial Project.

7.07 Construction Vote for a Modification or Extension. Immediately following the last to occur of the events referred to in Section 7.05(i), 7.05(ii) and 7.05(iii) (provided that the requirement of the occurrence of any of the preceding events may be waived by a Unanimous Interest) the Management Committee shall vote on whether the Company shall be committed to construct a Modification or an Extension and accept the Financing Commitment for a Modification or Extension. If the vote to commit the Company to construct a Modification is by a 50% Interest or Extension is by a Majority Interest but the vote of the Management Committee is not unanimous as to whether the Company shall be committed to construct a Modification or Extension, the Member(s) that did not vote in favor of such commitment shall be deemed to have its future commitment to such Modification or Extension reduced to zero and their Sharing Ratios shall thereafter be adjusted from time to time so that each Member's Sharing Ratio is equal to the ratio of that Member's Capital Contributions to all the Member's Capital Contribution, and notwithstanding any other provision of this Agreement, the Member(s) that voted in favor of such commitment shall be free to proceed in accordance with this Agreement, a 50% Interest or Majority Interest, as applicable, being deemed the requisite vote of the Management Committee. A Member must vote to commit the Company to construct a Modification or Extension if such Member voted to accept the certificate for Modification or Extension in accordance with Section 7.03, unless there is a change in the Financing Commitment which results in a Material Adverse Effect on the economics of the Modification or Extension.

7.08 Construction of Initial Facilities, Modification, or Extension. The Operator shall negotiate a construction agreement (in consultation with the Management Committee for the Initial Facilities, Modification, or Extension to be constructed under this Agreement to the extent requested by the Management Committee) between Company and the contractor selected by the Management Committee and submit the agreement to the Management Committee for its approval; (i) upon such approval, the Company shall enter into the construction agreement with the contractor; and (ii) the Operator shall oversee the performance under the construction agreement, coordinate with the contractor in connection with the construction, administer the construction agreement and regularly report to the Management Committee on the progress of the construction. The Operator shall not amend in any material respect or terminate the construction agreement,

relinquish any material rights thereunder, or institute litigation or arbitration against the contractor, except with the approval of the Management Committee.

ARTICLE 8 OPERATOR

Operator. The Operator, on behalf of the Company, shall be responsible for the design, construction, operation and maintenance of the Initial Facilities, Modifications and Extensions of the Company and the day-to-day management of the affairs of the Company pursuant to the CO&M Agreement. If the CO&M Agreement is terminated or the Operator is removed in accordance with the terms of the CO&M Agreement, the Management Committee shall select a successor Operator which shall execute a new operating agreement in substantially the form of the prior CO&M Agreement.

ARTICLE 9 TAXES

9.01 **Tax Returns.** The Operator shall prepare and timely file (on behalf of the Company) all federal, state and local tax returns required to be filed by the Company. A draft copy of all such returns shall be provided to each Member for review and comment no later than 30 days prior to the time when such return is required to be filed (including extensions, if applicable). Each Member shall furnish to the Operator all pertinent information in its possession relating to the Company's operations that is necessary to enable the Company's tax returns to be timely prepared and filed. The Company shall bear the costs of the preparation and filing of its returns.

9.02 **Tax Elections.** The Company shall make the following elections on the appropriate tax returns:

- (a) to adopt as the Company's fiscal year the calendar year;
- (b) to adopt the accrual method of accounting;
- (c) if a distribution of the Company's property as described in Code Section 734 occurs or upon a transfer of Membership Interest as described in Code Section 743 occurs, on request by notice from any Member, to elect, pursuant to Code Section 754, to adjust the basis of the Company's properties;
- (d) to elect to amortize the organizational expenses of the Company ratably over a period of 60 months as permitted by Section 709(b) of the Code; and
- (e) any other election the Management Committee may deem appropriate.

The Members intend that the Company shall be treated, solely for tax purposes, as a partnership, and neither the Company nor any Member shall make an election for the Company to be taxed as a corporation or to be excluded from the application of the provisions of subchapter K of chapter 1 of subtitle A of the Code or any similar provisions of applicable state law and no provision of this Agreement shall be construed to sanction or approve such an election.

9.03 ***Tax Matters Member.*** (a) The Management Committee shall designate the Operator to serve as the "tax matters partner" of the Company pursuant to Section 6231(a)(7) of the Code (the "*Tax Matters Member*"). The Tax Matters Member shall take such action as may be necessary to cause to the extent possible each other Member to become a "notice partner" within the meaning of Section 6223 of the Code. The Tax Matters Member shall inform each other Member of all significant matters that may come to its attention in its capacity as Tax Matters Member by giving notice thereof on or before the fifth Business Day after becoming aware thereof and, within that time, shall forward to each other Member copies of all significant written communications it may receive in that capacity.

(b) The Tax Matters Member shall take no action without the authorization of the Management Committee, other than such action as may be required by Law. Any cost or expense incurred by the Tax Matters Member in connection with its duties, including the preparation for or pursuance of administrative or judicial proceedings, shall be paid by the Company.

(c) The Tax Matters Member shall not enter into any extension of the period of limitations for making assessments on behalf of the Members without first obtaining the consent of the Management Committee. The Tax Matters Member shall not bind any Member to a settlement agreement without obtaining the consent of such Member. Any Member that enters into a settlement agreement with respect to any Company item (as described in Code Section 6231(a)(3)) shall notify the other Members of such settlement agreement and its terms within 90 Days from the date of the settlement.

(d) No Member shall file a request pursuant to Code Section 6227 for an administrative adjustment of Company items for any taxable year without first notifying the other Members. If the Management Committee consents to the requested adjustment, the Tax Matters Member shall file the request for the administrative adjustment on behalf of the Members. If such consent is not obtained within 30 Days from such notice, or within the period required to timely file the request for administrative adjustment, if shorter, any Member, including the Tax Matters Member, may file a request for administrative adjustment on its own behalf. Any Member intending to file a petition under Code Sections 6226, 6228 or other Code Section with respect to any item involving the Company shall notify the other Members of such intention and the nature of the contemplated proceeding. In the case where the Tax Matters Member is the Member intending to file such petition on behalf of the Company, such notice shall be given within a reasonable period of time to allow the other Members to participate in the choosing of the forum in which such petition will be filed.

(e) If any Member intends to file a notice of inconsistent treatment under Code Section 6222(b), such Member shall give reasonable notice under the circumstances to the other Members of such intent and the manner in which the Member's intended treatment of an item is (or may be) inconsistent with the treatment of that item by the other Members.

ARTICLE 10 BOOKS, RECORDS, REPORTS, AND BANK ACCOUNTS

10.01 ***Maintenance of Books.*** (a) The Operator shall keep or cause to be kept at the principal office of the Company or at such other location approved by the Management Committee

complete and accurate books and records of the Company, supporting documentation of the transactions with respect to the conduct of the Company's business and minutes of the proceedings of its Members and the Management Committee, and any other books and records that are required to be maintained by applicable Law.

(b) The books of account of the Company shall be (i) maintained on the basis of a fiscal year that is the calendar year, (ii) maintained on an accrual basis in accordance with Required Accounting Practice, and (iii) unless the Management Committee decides otherwise, audited by the Certified Public Accountants at the end of each calendar year.

10.02 **Reports.** (a) With respect to each calendar year, the Operator shall prepare and deliver to each Member:

(i) Within 150 Days after the end of such calendar year, a profit and loss statement and a statement of cash flows for such year, a balance sheet and a statement of each Member's Capital Account as of the end of such year, and, if required by the Management Committee, an audited or unaudited report thereon of the Certified Public Accountants; and

(ii) Such federal, state and local income tax returns and such other accounting, tax information and schedules as shall be necessary for the preparation by each Member on or before June 15 following the end of each calendar year of its income tax return with respect to such year.

(b) Within 45 Days after the end of each calendar month, the Operator shall cause to be prepared and delivered to each Member, with an appropriate certificate of the Person authorized to prepare the same (provided that the Management Committee may change the financial statements required by this Section 10.02(b) to a quarterly basis or may make such other change therein as it may deem appropriate):

(i) A profit and loss statement and a statement of cash flows for such month (including sufficient information to permit the Members to calculate their tax accruals), for the portion of the calendar year then ended and for the 12-month period then ended;

(ii) A balance sheet and a statement of each Member's Capital Account as of the end of such month and the portion of the calendar year then ended; and

(iii) A statement comparing the actual financial status and results of the Company as of the end of or for such month and the portion of the calendar year then ended with the budgeted or forecasted status and results as of the end of or for such respective periods.

(c) The Operator shall also cause to be prepared and delivered to each Member such other reports, forecasts, studies, budgets and other information as the Management Committee may request from time to time.

10.03 **Bank Accounts.** Funds of the Company shall be deposited in such banks or other depositories as shall be designated from time to time by the Management Committee or by the Operator pursuant to the CO&M Agreement. All withdrawals from any such depository shall be made only as authorized by the Management Committee or by the Operator pursuant to the CO&M

Agreement and shall be made only by check, wire transfer, debit memorandum or other written instruction.

ARTICLE 11 WITHDRAWAL

11.01 *No Right of Withdrawal.* A Member has no power or right to voluntarily Withdraw from the Company.

11.02 *Deemed Withdrawal.* A Member is deemed to have Withdrawn from the Company upon the occurrence of any of the following events:

- (a) there occurs an event that (i) makes it unlawful for the Member to continue to be a Member or (ii) causes the Member's continued membership in the Company to subject the Company, any other Member, or any "affiliate" (as defined in PUHCA) of any other Member to regulation under PUHCA, unless all other Members, in their Sole Discretion, unanimously determine such regulation not to be burdensome and so inform the Member subjected to such event in writing within three Business Days following such event;
- (b) the Member becomes Bankrupt;
- (c) the Member dissolves and commences liquidation or winding-up; or
- (d) the Member commits a Default.
- (e) votes to reject or not accept or fails to vote for acceptance of the FERC Certificate for or fails to vote to construct the Initial Facilities.

In the case of an event described in Section 11.03(a)(ii), if the regulation under PUHCA referred to in said Section can be avoided by the Disposition by the affected Member of all or a portion of its Membership Interest to another Person and the affected Member desires to effect such a Disposition, then the affected Member shall have the option (but not the obligation) to avoid such deemed Withdrawal by giving, within five Business Days after the three Business Day period referred to above, the Disposition Notice referred to in Section 3.03(b)(ii)(A) with respect to such Disposition, and if the other Members do not exercise their Preferential Right, in accordance therewith, the affected Member must consummate the Disposition to such other Person within seven Business Days after such Preferential Right is waived or deemed to be waived under the provisions of Section 3.03(b)(ii)(A) (or, if later, within five Business Days after the receipt of all applicable Authorizations to the Disposition).

11.03 *Effect of Withdrawal.* A Member that is deemed to have Withdrawn pursuant to Section 11.02 (a "*Withdrawn Member*"), must comply with the following requirements in connection with its Withdrawal:

- (a) The Withdrawn Member ceases to be a Member immediately upon the occurrence of the applicable Withdrawal event.

(b) The Withdrawn Member shall not be entitled to receive any distributions from the Company except as set forth in Section 11.03(e), and neither it nor its Representative shall be entitled to exercise any voting or consent rights or to receive any further information (or access to information) from the Company. The Sharing Ratio of such Member shall not be taken into account in calculating the Sharing Ratios of the Members for any purposes. This Section 10.03(b) shall also apply to a Breaching Member; but if a Breaching Member cures its breach during the applicable cure period, then any distributions that were withheld from such Member shall be paid to it, without interest.

(c) The Withdrawn Member must pay to the Company all amounts owed to it by such Withdrawn Member.

(d) The Withdrawn Member shall remain obligated for all liabilities it may have under this Agreement or otherwise with respect to the Company that accrue prior to the Withdrawal.

(e) In the event of a deemed Withdrawal under Section 11.02(a), (b), or (c) the Withdrawn Member shall be entitled to receive a portion of each distribution that is made by the Company from and after the In-Service Date, equal to the product of the Withdrawn Member's Sharing Ratio as of the date of its Withdrawal *times* the aggregate amount of such distribution; provided, however, that the Withdrawn Member's rights under this Section 11.03(e) shall automatically terminate at such time as the Withdrawn Member has received an aggregate amount under this Section 10.03(e) equal to the sum of (i) the positive balance in the Withdrawn Member's Capital Account, determined as of the date of the Withdrawal after all adjustments *plus* (ii) any Indebtedness of the Company owed to such Member at the time of the Withdrawal. From the date of the Withdrawal to the date of such payment, the former Capital Account balance of the Withdrawn Member shall be recorded as a contingent obligation of the Company, and not as a Capital Account, until such payment is made. The rights of a Withdrawn Member under this Section 11.03(e) shall (A) be subordinate to the rights of any other creditor of the Company, (B) not include any right on the part of the Withdrawn Member to receive any interest (except as may otherwise be provided in the evidence of any Indebtedness of the Company owed to such Withdrawn Member) or other amounts with respect thereto; (C) not require the Company to make any distribution (the Withdrawing Member's rights under this Section 11.03(e) being limited to receiving a portion of such distributions as the Management Committee may, in its Sole Discretion, decide to cause the Company to make); (D) not require any Member to make a Capital Contribution or a loan to permit the Company to make a distribution or otherwise to pay the Withdrawing Member; and (E) be treated as a liability of the Company for purposes of Section 13.02. Except as set forth in this Section 11.03(e), a Withdrawn Member shall not be entitled to receive any return of its Capital Contributions or other payment from the Company in respect of its Membership Interest.

(f) The Sharing Ratio of the Withdrawn Member shall be allocated among the remaining Members in the proportion that each Member's Sharing Ratio bears to the total Sharing Ratio of all remaining Members, or in such other proportion as the Members may unanimously agree.

ARTICLE 12 DISPUTE RESOLUTION

12.01 *Disputes.* This Article 12 shall apply to any dispute arising under or related to this Agreement (whether arising in contract, tort or otherwise, and whether arising at law or in equity), including (a) any dispute regarding the construction, interpretation, performance, validity or enforceability of any provision of this Agreement or whether any Person is in compliance with, or breach of, any provisions of this Agreement, and (b) the applicability of this Article 12 to a particular dispute. Notwithstanding the foregoing, this Article 12 shall not apply to any matters that, pursuant to the provisions of this Agreement, are to be resolved by a vote of the Members (including through the Management Committee); provided, however, that (i) any matter that is expressly stated herein to be determinable by arbitration may be so determined pursuant to this Article 12 and (ii) if a vote, approval, consent, determination or other decision must, under the terms of this Agreement, be made (or withheld) in accordance with a standard other than Sole Discretion (such as a reasonableness standard), then the issue of whether such standard has been satisfied may be a dispute to which this Article 12 applies. Any dispute to which this Article 12 applies is referred to herein as a "*Dispute.*" With respect to a particular Dispute, each Member that is a party to such Dispute is referred to herein as a "*Disputing Member.*" The provisions of this Article 12 shall be the exclusive method of resolving Disputes.

12.02 *Negotiation to Resolve Disputes.* If a Dispute arises, the Disputing Members shall attempt to resolve such Dispute through the following procedure:

(a) first, the Representatives of each of the Disputing Members shall promptly meet (whether by phone or in person) in a good faith attempt to resolve the Dispute;

(b) second, if the Dispute is still unresolved after 20 Days following the commencement of the negotiations described in Section 12.02(a), then the chief executive officer (or his designee) of the Parent of each Disputing Member shall meet (whether by phone or in person) in a good faith attempt to resolve the Dispute; and

(c) third, if the Dispute is still unresolved after 10 Days following the commencement of the negotiations described in Section 12.02(b), then any Disputing Party may submit such Dispute to binding arbitration under this Article 12 by notifying the other Disputing Members (an "*Arbitration Notice*").

12.03 *Selection of Arbitrator.* (a) Any arbitration conducted under this Article 12 shall be heard by a sole arbitrator (the "*Arbitrator*") selected in accordance with this Section 12.03. The Disputing Member that submits a Dispute to arbitration shall designate its proposed Arbitrator and disclose in the Arbitration Notice any business, personal, or relationship, or affiliation that may exist between such Deputing Member and such proposed Arbitrator. If any other Member objects to such proposed Arbitrator, it may, on or before the tenth Day following delivery of the Arbitration Notice, notify all of the Disputing Members and other Members of such objection. All of the Members shall attempt to agree upon a mutually acceptable Arbitrator. If they are unable to do so within 20 Days following delivery of the notice described in the immediately-preceding sentence, any Member may request the American Arbitration Association (or, if such Association has ceased to exist, the principal successor thereto) (the "*AAA*") to designate the Arbitrator. If the Arbitrator so chosen

shall die, resign or otherwise fail or becomes unable to serve as Arbitrator, a replacement Arbitrator shall be chosen in accordance with this Section 12.03.

12.04 *Conduct of Arbitration.* The Arbitrator shall expeditiously (and, if possible, within 90 Days after the Arbitrator's selection) hear and decide all matters concerning the Dispute. Any arbitration hearing shall be held in Boston, Massachusetts. The arbitration shall be conducted in accordance with the then-current Commercial Arbitration Rules of the AAA (excluding rules governing the payment of arbitration, administrative or other fees or expenses to the Arbitrator or the AAA), to the extent that such Rules do not conflict with the terms of this Agreement. Except as expressly provided to the contrary in this Agreement, the Arbitrator shall have the power (a) to gather such materials, information, testimony and evidence as it deems relevant to the dispute before it (and each Member will provide such materials, information, testimony and evidence requested by the Arbitrator, except to the extent any information so requested is proprietary, subject to a third-party confidentiality restriction or to an attorney-client or other privilege) and (b) to grant injunctive relief and enforce specific performance. If it deems necessary, the Arbitrator may propose to the Disputing Members that one or more other experts be retained to assist it in resolving the Dispute. The retention of such other experts shall require the unanimous consent of the Disputing Members, which shall not be unreasonably withheld. Each Disputing Member, the Arbitrator and any proposed expert shall disclose to the other Disputing Members any business, personal or other relationship or Affiliation that may exist between such Disputing Member (or the Arbitrator) and such proposed expert; and any Disputing Member may disapprove of such proposed expert on the basis of such relationship or Affiliation. The decision of the Arbitrator (which shall be rendered in writing) shall be final, nonappealable and binding upon the Disputing Members and may be enforced in any court of competent jurisdiction; provided that the Members agree that the Arbitrator and any court enforcing the award of the Arbitrator shall not have the right or authority to award punitive, special, consequential or exemplary damages to any Disputing Member. The responsibility for paying the costs and expenses of the arbitration, including compensation to the Arbitrator and any experts retained by the Arbitrator, shall be allocated among the Disputing Members in a manner determined by the Arbitrator to be fair and reasonable under the circumstances. Each Disputing Member shall be responsible for the fees and expenses of its respective counsel, consultants and witnesses, unless the Arbitrator determines that compelling reasons exist for allocating all or a portion of such costs and expenses to one or more other Disputing Members.

ARTICLE 13 DISSOLUTION, WINDING-UP AND TERMINATION

13.01 *Dissolution.* The Company shall dissolve and its affairs shall be wound up on the first to occur of the following events (each a "*Dissolution Event*");

- (a) the unanimous consent of the Management Committee to dissolve the Company;
- (b) entry of a decree of judicial dissolution of the Company under Section 18-802 of the Act;
- (c) the Disposition or abandonment of all or substantially all of the Company's business and assets; or

(d) an event that makes it unlawful for the business of the Company to be carried on.

13.02 Winding-Up and Termination. (a) On the occurrence of a Dissolution Event, the Management Committee shall designate a Member or other Person to serve as liquidator. The liquidator shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Act. The costs of winding up shall be borne as a Company expense. Until final distribution, the liquidator shall continue to operate the Company properties with all of the power and authority of the Members. The steps to be accomplished by the liquidator are as follows:

(i) as promptly as possible after dissolution and again after final winding up, the liquidator shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities, and operations through the last calendar day of the month in which the dissolution occurs or the final winding up is completed, as applicable;

(ii) the liquidator shall discharge from Company funds all of the Indebtedness and other debts, liabilities and obligations of the Company (including all expenses incurred in winding up and any loans described in Section 4.05) or otherwise make adequate provision for payment and discharge thereof (including the establishment of a cash escrow fund for contingent liabilities in such amount and for such term as the liquidator may reasonably determine); and

(iii) all remaining assets of the Company shall be distributed to the Members as follows:

(A) the liquidator may sell any or all Company property, including to Members,;

(B) with respect to all Company property that has not been sold, the fair market value of that property shall be determined; and

(C) all Company property (including cash) shall be distributed among the Members in accordance with Section 5.02:.

(b) The distribution of cash or property to a Member in accordance with the provisions of this Section 13.02 constitutes a complete return to the Member of its Capital Contributions and a complete distribution to the Member of its Membership Interest and all the Company's property and constitutes a compromise to which all Members have consented pursuant to Section 18-502(b) of the Act. To the extent that a Member returns funds to the Company, it has no claim against any other Member for those funds.

(c) No dissolution or termination of the Company shall relieve a Member from any obligation to the extent such obligation has accrued as of the date of such dissolution or termination. Upon such termination, any books and records of the Company that there is a reasonable basis for believing will ever be needed again shall be furnished to the liquidator, who shall keep such books and records (subject to review by any Person that was a Member at the time of dissolution) for a period at least three years. At such time as the liquidator no longer agrees to keep such books and

records, it shall offer the Persons who were Members at the time of dissolution the opportunity to take over such custody, shall deliver such books and records to such Persons if they elect to take over such custody and may destroy such books and records if they do not so elect. Any such custody by such Persons shall be on such terms as they may agree upon among themselves.

13.03 *Deficit Capital Accounts.* No Member will be required to pay to the Company, to any other Member or to any third party any deficit balance that may exist from time to time in the Member's Capital Account.

13.04 *Certificate of Cancellation.* On completion of the distribution of Company assets as provided herein, the Members (or such other Person or Persons as the Act may require or permit) shall file a certificate of cancellation with the Secretary of State of Delaware, cancel any other filings made pursuant to Section 2.05, and take such other actions as may be necessary to terminate the existence of the Company. Upon the filing of such certificate of cancellation, the existence of the Company shall terminate (and the Term shall end), except as may be otherwise provided by the Act or other applicable Law.

ARTICLE 14 GENERAL PROVISIONS

14.01 *Interpretation.* Unless the context requires otherwise: (a) the gender (or lack of gender) of all words used in this Agreement includes the masculine, feminine, and neuter; (b) references to Articles and Sections refer to Articles and Sections of this Agreement; (c) references to Exhibits refer to the Exhibits attached to this Agreement, each of which is made a part hereof for all purposes; (d) references to Laws refer to such Laws as they may be amended from time to time, and references to particular provisions of a Law include any corresponding provisions of any succeeding Law; and (e) references to money refer to legal currency of the United States of America.

14.02 *Offset.* Whenever the Company is to pay any sum to any Member, any amounts that Member owes the Company may be deducted from that sum before payment.

14.03 *Notices.* Except as expressly set forth to the contrary in this Agreement, all notices, requests or consents provided for or permitted to be given under this Agreement must be in writing and must be delivered to the recipient in person, by courier or mail or by facsimile or other electronic transmission. A notice, request or consent given under this Agreement is effective on receipt by the Member to receive it; provided, however, that a facsimile or other electronic transmission that is transmitted after the normal business hours of the recipient shall be deemed effective on the next Business Day. All notices, requests and consents to be sent to a Member must be sent to or made at the addresses given for that Member on Exhibit A or such other address as that Member may specify by notice to the other Members. Any notice, request or consent to the Company must be given to all of the Members. Whenever any notice is required to be given by Law, the Delaware Certificate or this Agreement, a written waiver thereof, signed by the Person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

14.04 *Entire Agreement; Superseding Effect.* This Agreement constitutes the entire agreement of the Members and their Affiliates relating to the Company and the transactions contemplated hereby and supersedes all provisions and concepts contained in all Prior Agreements.

14.05 *Effect of Waiver or Consent.* Except as otherwise provided in this Agreement, a waiver or consent, express or implied, to or of any breach or default by any Member in the performance by that Member of its obligations with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Member of the same or any other obligations of that Member with respect to the Company. Except as otherwise provided in this Agreement, failure on the part of a Member to complain of any act of any Member or to declare any Member in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Member of its rights with respect to that default until the applicable statute-of-limitations period has run.

14.06 *Amendment or Restatement.* This Agreement or the Delaware Certificate may be amended or restated only by a written instrument executed (or, in the case of the Delaware Certificate, approved) by a Unanimous Interest.

14.07 *Binding Effect.* Subject to the restrictions on Dispositions set forth in this Agreement, this Agreement is binding on and shall inure to the benefit of the Members and their respective successors and permitted assigns.

14.08 *Governing Law; Severability.* THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE, EXCLUDING ANY CONFLICT-OF-LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. In the event of a direct conflict between the provisions of this Agreement and any mandatory, non-waivable provision of the Act, such provision of the Act shall control. If any provision of the Act provides that it may be varied or superseded in a limited liability company agreement (or otherwise by agreement of the members or managers of a limited liability company), such provision shall be deemed superseded and waived in its entirety if this Agreement contains a provision addressing the same issue or subject matter. If any provision of this Agreement or the application thereof to any Member or circumstance is held invalid or unenforceable to any extent, (a) the remainder of this Agreement and the application of that provision to other Members or circumstances is not affected thereby, and (b) the Members shall negotiate in good faith to replace that provision with a new provision that is valid and enforceable and that puts the Members in substantially the same economic, business and legal position as they would have been in if the original provision had been valid and enforceable.

14.09 *Further Assurances.* In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions; provided, however, that this Section 14.09 shall not obligate a Member to furnish guarantees or other credit supports by such Member's Parent or other Affiliates.

14.10 *Waiver of Certain Rights.* Each Member irrevocably waives any right it may have to maintain any action for dissolution of the Company or for partition of the property of the Company.


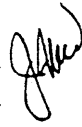
14.11 *Counterparts*. This Agreement may be executed in any number of counterparts with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Members have executed this Agreement as of the date first set forth above.

MEMBERS:

DUKE ENERGY ISLANDER EAST PIPELINE
COMPANY, L.L.C

By: 
Name: Thomas G. O'Connor
Title: Sr. Vice President 

KEYSPAN ISLANDER EAST PIPELINE, L.L.C

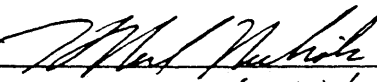
By: 
Name: H. Neil Nichols
Title: President

EXHIBIT A

MEMBERS

Name and Address	Sharing Ratio	Parent	Representative and Alternate Representative
Duke Energy Islander East Pipeline Company, L.L.C. Attention:	50%	Duke Energy Gas Transmission Corporation	Representative: R. B. Evans Alternate Representative: Thomas C. O'Connor Alternate Representative: D. Patrick Whitty
KeySpan Islander East Pipeline, L.L.C. Attention:	50%	KeySpan Energy	Representative: Neil Nichols Alternate Representative: Joseph A. Vascily

ISLANDER EAST PIPELINE COMPANY, L.L.C.

EXHIBIT B

STATE AUTHORIZATIONS

State of Delaware

F J10423000644

PAGE 1

Office of the Secretary of State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "DUKE ENERGY ISLANDER EAST PIPELINE COMPANY, L.L.C." IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTIETH DAY OF APRIL, A.D. 2001.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE NOT BEEN ASSESSED TO DATE.



Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State

3326462 8300

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AUTHENTICATION: 1090754

DATE: 04-20-01

F010423000 644

APPLICATION FOR AUTHORITY

CT-07

OF

Duke Energy Islander East Pipeline Company, L.L.C.
Under Section 802 of the Limited Liability Company Law

FIRST: The name of the limited liability company is: Duke Energy Islander East Pipeline Company,
L.L.C.

☐ If the name of the limited liability company is unavailable, the
fictitious name under which it will do business in New York is

SECOND: The jurisdiction of organization of the limited liability company is:
Delaware

The date of its organization is: 12/7/00

THIRD: The county within this state in which the office of the limited liability
company is to be located is: Suffolk

FOURTH: The secretary of state is designated as agent of the limited liability
company upon whom process against it may be served. The post
office address within this state to which the secretary of state shall
mail a copy of any process against him or her is: c/o CT
Corporation System, 111 Eighth Avenue, New York, New York
10011.

FIFTH: The name and street address within this state of the registered
agent of the limited liability company upon whom and at which
process against the limited liability company can be served is: C T
Corporation System, 111 Eighth Avenue, New York, New York
10011.

SIXTH: The address of the office required to be maintained in the
jurisdiction of formation by the laws of that jurisdiction or, if not so
required, the address of the principal office of the limited liability
company is:
5400 Westheimer Court, Houston, Texas 77056

SEVENTH: The limited liability company is in existence in its jurisdiction
of formation at that time of the filing of this application.

EIGHTH: The name and address of the authorized officer in the jurisdiction of formation where a copy of the articles of organization of the limited liability company is filed is Secretary of state
John G. Townsend Building, Federal + Duke of
York Street, Dover, DE 19901

If no public filing of its articles of organization is required by the laws of the jurisdiction of formation, the limited liability company shall provide, upon request, a copy thereof with all amendments thereto and the name and post office address of the person responsible for providing such copies.

Alan M. Harris

Name and Capacity of Signer

Alan Harris

Assistant Secretary / Authorized Person

State of New York }
Department of State } ss:

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

MAY 21 2001



A handwritten signature in black ink, appearing to read "J. Leub", followed by a long horizontal line extending to the right.

Special Deputy Secretary of State

CT-07

F 010517000 796 CT-07

APPLICATION FOR AUTHORITY

OF

Islander East Pipeline Company, L.L.C.

Under Section 802 of the Limited Liability Company Law

FIRST: The name of the limited liability company is: Islander East Pipeline Company, L.L.C.

☐ If the name of the limited liability company is unavailable, the fictitious name under which it will do business in New York is

SECOND: The jurisdiction of organization of the limited liability company is: Delaware

The date of its organization is: 11/16/00

THIRD: The county within this state in which the office of the limited liability company is to be located is: Suffolk

FOURTH: The secretary of state is designated as agent of the limited liability company upon whom process against it may be served. The post office address within this state to which the secretary of state shall mail a copy of any process against him or her is: c/o CT Corporation System, 111 Eighth Avenue, New York, New York 10011.

FIFTH: The name and street address within this state of the registered agent of the limited liability company upon whom and at which process against the limited liability company can be served is: C T Corporation System, 111 Eighth Avenue, New York, New York 10011.

SIXTH: _____
_____ the principal office of the limited liability company is:
5400 Westheimer Court, Houston, Texas 77056

SEVENTH: The limited liability company is in existence in its jurisdiction of formation at that time of the filing of this application.

EIGHTH: The name and address of the authorized officer in the jurisdiction of formation where a copy of the articles of organization of the limited liability company is filed is

John G. Townsend Building, Federal and Duke of York Street, Dover, DE 19901



Name and Capacity of Signer

Thomas C. O'Conner - Sr. Vice President
of Duke Energy Islander East Pipeline Company -

Member *Authorized Person.*

2

Office of the Secretary of State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "ISLANDER EAST PIPELINE COMPANY, L.L.C." IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE FOURTEENTH DAY OF MAY, A.D. 2001.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE NOT BEEN ASSESSED TO DATE.



Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State

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3 AUTHENTICATION: 1130905

DATE: 05-14-01

CT-07

4 010517000796

CT-07

APPLICATION FOR AUTHORITY
OF
ISLANDER EAST PIPELINE COMPANY, L.L.C.
UNDER SECTION 802 OF THE LIMITED LIABILITY COMPANY LAW

MAY 17 3 20 01

DUKE ENERGY CORP
5400 WESTHEIMER COURT
HOUSTON, TX 77056

la
STATE OF NEW YORK
DEPARTMENT OF STATE

FILED MAY 17 2001

TAX \$
BY: wbd

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DRAWDOWN

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ISLANDER EAST PIPELINE COMPANY, L.L.C.

EXHIBIT C

COMPANY OFFICIALS